

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
CENTRAL VALLEY REGION (CENTRAL VALLEY WATER BOARD)

NOTICE OF PUBLIC HEARING and HEARING PROCEDURES
TO CONSIDER AMENDMENT 2 OF CLEANUP AND ABATEMENT ORDER R5-2006-0721
BONZI SANITATION LANDFILL
STANISLAUS COUNTY, CALIFORNIA

NOTICE IS HEREBY GIVEN THAT A PUBLIC HEARING
WILL BE HELD BEFORE THE CENTRAL VALLEY WATER BOARD
ON FEBRUARY 4, 2009

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

On 3 December 2008, the Executive Officer of the Central Valley Regional Water Quality Control Board issued Amendment No. 1 to Cleanup and Abatement Order (CAO) No. R5-2006-0721 pursuant to California Water Code (CWC) section 13304 for the Bonzi Sanitation Landfill. The responsible parties, Ma-Ru Holding Company, Inc. and the Bonzi Sanitation Landfill Inc. Partnership (collectively "Discharger"), have requested a hearing on this matter, which has now been scheduled for the 4 February 2009 Regional Board meeting in Rancho Cordova.

Enclosed for your information are the agenda materials for the hearing, including the tentative Amendment No. 2 to CAO No. R5-2006-0721. If adopted, Amendment No. 2 would rescind Amendment No. 1, and would conditionally require the Discharger to provide uninterrupted replacement water service with no cost to users of certain water wells near the Bonzi Sanitation Landfill in the event that the water supply wells become polluted above applicable drinking water standards by volatile organic compounds (VOCs).

Purpose of Hearing

The purpose of the hearing is to receive relevant evidence and testimony regarding Amendment 2. At the hearing, the Regional Board will consider whether to approve, modify or reject Amendment 2.

The public hearing on 4 February 2009 will commence at 1:00 p.m. or as soon thereafter as practical, or as announced in the Board meeting agenda. The meeting will be held at 11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670. An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Regional Board's web page at <http://www.waterboards.ca.gov/centralvalley>.

Hearing Procedure

The hearing will be conducted in accordance with this hearing procedure. This proposed draft version of the hearing procedure has been prepared by the Prosecution Team, and is subject to revision and approval by the Central Valley Water Board's Advisory Team. A copy of the general procedures governing adjudicatory hearings before the Central Valley Water Board

may be found at title 23, California Code of Regulations (CCR), section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with section 648, subdivision (d), any procedure not provided by this hearing procedure is deemed waived. Except as provided in section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with section 11500 of the Government Code) does not apply to this hearing.

THIS NOTICE AND THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM AT ITS DISCRETION. **ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE CENTRAL VALLEY WATER BOARD'S ADVISORY TEAM NO LATER THAN 5:00 P.M. ON JANUARY 26, 2009 OR THEY WILL BE WAIVED.** FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). Both designated parties and interested persons may be asked to respond to clarifying questions from the Central Valley Water Board, staff or others, at the discretion of the Board Chair.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Prosecution Staff
- (2) Ma-Ru Holding Company and Bonzi Sanitation Landfill, Inc. Partnership, collectively referred to as "Discharger"

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) no later than 5 p.m. on January 26, 2009 to Lori Okun. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Central Valley Water Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest.

Primary Contacts

Advisory Team:

Staff Mr. Ken Landau
 klandau@waterboards.ca.gov, (916) 464-3291
 Central Valley Water Board
 11020 Sun Center Drive, #200
 Rancho Cordova, CA 95670

Attorney Ms. Lori Okun
 lokun@waterboards.ca.gov, (916) 341-5165
 State Water Resources Control Board
 1001 I Street
 Sacramento, CA 95814

Prosecution Team:

Staff Ms. Pamela Creedon, Executive Officer
 Ms. Wendy Wyels
 Mr. Steve Rosenbaum

 Mr. Howard Hold
 hhold@waterboards.ca.gov (916) 464-4679
 Central Valley Water Board
 11020 Sun Center Drive, #200
 Rancho Cordova, CA 95670

Attorney Mr. Patrick Pulupa
 Mr. Christian Carrigan
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 State Water Resources Control Board
 1001 I Street
 Sacramento, CA 95814

Discharger:

Contact Ms. Karna Harrigfeld
 kharrigfeld@herumcrabtree.com (209) 472-7700
 2291 West March Lane Suite B100
 Stockton, California 95207

 Mr. Lee N. Smith
 Stoel Rives, LLP

 Mr. Thomas O'Keefe
 Thomas J. O'Keefe, Inc

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Central Valley Water Board (Prosecution Team) have been separated from those who will provide advice to the Central Valley Water Board (Advisory Team). Members of the Advisory Team are: Ken Landau, Assistant Executive Officer; and Lori Okun, Senior Staff Counsel. Members of the Prosecution Team are: Pamela Creedon, Executive Officer; Wendy Wyels, Environmental Program Manager; Steve Rosenbaum, Senior Engineering Geologist, Howard Hold, Engineering Geologist, Patrick Pulupa, Staff Counsel, and Cris Carrigan, Senior Staff Counsel. Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Central Valley Water Board in other, unrelated matters, but they are not advising the Central Valley Water Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Central Valley Water Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Central Valley Water Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the tentative Order between a member of a designated party or interested person on the one hand, and a Central Valley Water Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if verbal). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have a combined 20 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team no later than ten days after all of the evidence has been submitted. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Central Valley Water Board Chair (at the hearing) upon a showing that additional time is necessary.

Evidence, Exhibits and Policy Statements

The Prosecution Staff's evidence in support of Amendment 2 to CAO R5-2006-0721 is attached to and/or incorporated into by reference in the agenda materials provided with this

notice, which was provided to the Discharger on 16 January 2009, and also consists of documents in the Regional Board files. Designated parties shall submit in writing 10 copies of the following information to Ms. Lori Okun no later than 8 a.m. on Monday, 26 January 2009.

1. All evidence, testimony (except rebuttal testimony) and exhibits proposed to be offered at the hearing. Witness testimony must be submitted by declaration, signed under penalty of perjury, and the witness must be at the hearing to attest to the declaration and to be available for cross examination.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, and the subject of each witness' proposed testimony.
4. The qualifications of each expert witness, if any.

In addition to the foregoing, each designated party shall send (1) one copy of the above written materials to each of the other designated parties at the address or addresses provided above by 8 a.m. on January 26, 2009.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than 28 January 2009. Interested persons do not need to submit written comments in order to speak at the hearing.

In accordance with title 23, CCR, section 648.4, the Central Valley Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Central Valley Water Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure or the applicable deadlines contained in the cover letter that accompanied the Amendment 2 to CAO R5-2006-0721. Excluded evidence and testimony will not be considered by the Central Valley Water Board and will not be included in the administrative record for this proceeding. PowerPoint and other visual presentations may be used at the hearing. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team at or before the hearing for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Evidentiary Documents and File

Amendment 2, related evidentiary documents and comments received are on file and may be inspected or copied at the Central Valley Water Board office at 11020 Sun Center Dr #200, Rancho Cordova, CA. Files may be reviewed during regular office hours, which are generally weekdays from 8:00 a.m. to 5:00 p.m., excluding holidays. Persons interested in reviewing the file are encouraged to make a file review appointment in advance by contacting Howard Hold at (916) 464-4679. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will

become a part of the administrative record absent a contrary ruling by the Central Valley Water Board Chair. Many of these documents are also posted on-line at

http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/index.shtml

Although the web page is updated regularly, to assure access to the latest information, you may contact Cris Carrigan.

Questions

Questions concerning this proceeding may be addressed to Cris Carrigan at (916) 322-3626.